IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

1. CRIMINAL APPLICATION NO.2330 OF 2006

Nicolas Hubertus Gerardu, .. Applicant
Vs
1.State of Maharashtra & Anr. .. Respondents.

WITH

2. CRIMINAL APPLICATION NO.2331 OF 2006

Welten Barthole Meus, .. Applicant
Vs
1.State of Maharashtra & Anr. .. Respondents.

WITH

3. CRIMINAL APPLICATION NO.2332 OF 2006

Gerard De Reuver, .. Applicant
Vs
1.State of Maharashtra & Anr. .. Respondents.

Mr Amit Desai, with Mr Mihir Rele i/b AZB and Partners, for the applicants.

Mr Pankaj Sawant a/w Ms Sheeja John i/b M/s Savak & Co, for respondent no.2.

Mr R.Y.Mirza, APP for respondent no.1.

CORAM : D.B.BHOSALE, J.

DATED : 12th JULY, 2006

P.C.:

1. Heard Mr Amit Desai, learned counsel for the applicants, Mr Mirza, learned APP for respondent no.1 and Mr Sawant, learned counsel for respondent no.2.

2. In all the three applications, the applicants

have made the following prayers.

> "(a) cancel/revoke the non-bailable warrants issued against the accused/applicant;
>
> (b) set aside the impugned order dated April 19,2006 issued on application Exhibits 133 and 139 until final disposal of the Criminal Application No.2243 of 2004.
>
> (c) stay the operation o the impugned order dated April 19,2006 till the hearing and disposal of Criminal Application No.2243 of 2004;"

It appears that despite an undertaking, the learned Advocate on record did not remain present on 18.1.2006 and in view thereof non-bailable warrants were issued against accused nos 1 to 3. Immediately on the very day, an application was filed by the Advocate for the accused recording therein his undertaking that he shall remain present on every date of hearing and also prayed for stay of the warrants issued against all the three accused. That application was rejected by the learned Judge by the following order.

> "This application has been putforth before this Court at 3.10 pm. In paragraph No.3, it is mentioned that Advocate Amol Dange was present before Court. The Vakalatnama of said Advocate Amol Dange is not there on record. Advocate Shri S.S.Patwardhan has appeared in Court in second half session. It was argued by Advocate Patwardhan that other side advocate has intimated Advocate Vijayalaxmi that matter is adjourning to be conducted. Hence, call say of other side."

Thereafter, it seems that the learned Advocate for the

accused filed another application for cancellation of the nonbailable warrants issued against accused nos 1 to 3. That application was also rejected by the order dated 19.4.2006 impugned in the present applications. I perused the order. Though I do not find anything wrong in the order, in the interest of justice I would like to give one more opportunity to the applicants and hence I am passing the following order.

(i) Prayer (a) in all the three applications is granted, subject to payment of cost quantified at Rs.5000/- and also on the condition that the learned Advocate/s on record shall file fresh undertaking in writing in terms of the directions given by this Court in Bhaskar Sen Vs. State of Maharashtra, 2004 (4) Mh.L.J.1115 that they shall remain present on every date/s of hearing. The trial Court shall proceed with the hearing of the case, as far as possible, on day-to-day basis and decide the same expeditiously.

(ii) All the three applications are disposed of.

(D.B.BHOSALE,J.)